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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

INTERSERVE, INC. dba TECHCRUNCH, a Delaware corporation, and CRUNCHPAD, INC., a Delaware corporation,

Plaintiffs,

vs.

FUSION GARAGE PTE. LTD, a Singapore company,

Defendant.

CASE NO. C 09-cv-5812 JW (PVT)

**DECLARATION OF PATRICK
DOOLITTLE IN SUPPORT OF FUSION
GARAGE'S MOTION FOR
PROTECTIVE ORDER**

Date: March 16, 2010

Time: 10:00 a.m.

Judge: Hon. Patricia Trumbull

1 I, PATRICK C. DOOLITTLE declare as follows:

2 1. I am a member of the bar of the State of California and a partner in Quinn Emanuel
 3 Urquhart Oliver & Hedges, LLP, attorneys for Defendant Fusion Garage. Unless otherwise noted,
 4 I make this declaration of personal knowledge, and if called and sworn as a witness, I could and
 5 would testify competently thereto.

6 2. Shortly after the Court granted Plaintiffs' motion for expedited discovery, I called
 7 David Bloch, counsel for Plaintiffs. I believe I called him the day after the Court issued its order
 8 granting in part and denying in part Plaintiffs' motion for expedited discovery. I asked that
 9 Plaintiffs identify the trade secrets that they alleged were misappropriated prior to taking
 10 discovery regarding the Defendant's trade secrets. Plaintiffs' counsel's position was that Code of
 11 Civil Procedure 2019.210 did not apply because they were not alleging a trade secrets claim.
 12 Accordingly, he declined to identify Plaintiffs' trade secrets.

13 3. Plaintiffs have now served two sets of requests for production and one set of
 14 interrogatories on Defendant Fusion Garage. A true and correct copy of Plaintiff's First Set of
 15 Requests for Production is attached hereto as Exhibit A. A true and correct copy of Plaintiffs'
 16 First Set of Interrogatories is attached hereto as Exhibit B. A true and correct copy of Plaintiffs'
 17 Second Set of Requests for Production is attached hereto as Exhibit C.

18 4. Among the requests for production that Plaintiffs have served are the following:

19 ***Request for Production No. 13:*** All documents concerning the design,
 20 development or writing of software for the JooJoo.

21 ***Request for Production No. 15:*** All documents concerning the design of the
 22 JooJoo, including but not limited to industrial design, hardware, software, feature
 23 set, and user interface.

24 ***Request for Production No. 20:*** All documents concerning user documentation
 25 for the JooJoo.

26 ***Request for Production No. 24:*** All documents concerning plans for the
 27 development, design, manufacturing, marketing, advertising and promotion, and
 28 distribution of the JooJoo.

26 ***Request for Production No. 33:*** All documents evidencing or concerning
 27 communications concerning intellectual property in the JooJoo.

28 ***Request for Production No. 38:*** A complete copy of all versions of the source
 29 codes, object codes, and executables for the JooJoo.

Request for Production No. 46: All design documents, bill of materials, and other technical materials concerning the JooJoo.

5. Plaintiffs have also served discovery requests with the defined term “CrunchPad.”
defined term, however, appears designed to encompass Fusion Garage’s product. The
definition reads “The term ‘CrunchPad’ means any conception, version or prototype of the touch-
based computer developed by Plaintiff *or Defendant* or in collaboration between Plaintiff
and Defendant, or identified (internally or externally) as a CrunchPad, whether or not that
conception version or prototype was publically exhibited.” (Emphasis added).

6. Plaintiffs' complaint alleges claims for violation of the Lanham Act (false advertising), breach of fiduciary duty, misappropriation of business ideas, fraud and deceit, and unfair competition. Given Plaintiffs claims in this case, I do not understand why they are seeking discovery regarding Fusion Garage's proprietary information, including source code.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 5th day of February 2010 at San Francisco, California.

Patrick C. Doolittle /s/